ORDINANCE #1007-01

An ordinance to provide for the recovery of costs associated with development and maintenance of Lincoln County’s Geographic Information System and the provision of this data to members of the public and for setting forth the terms and conditions by which users of the Geographic Information Systems Data will be bound.

WHEREAS, the County of Lincoln has incurred costs to establish a Geographic Information System (GIS) which serves as the foundation for all mapping and GIS application development performed by the County; and

WHEREAS, members of the public often request copies of maps and/or other compilations of GIS data created for governmental purposes; and

WHEREAS, the County incurs certain costs for searching, producing and delivering GIS data to frequent users of the GIS data; and

WHEREAS, the County desires to implement measures to protect the GIS data from improper use or dissemination by members of the public, as well as to protect the County from liability for any errors or discrepancies that may be contained in the GIS data; and

WHEREAS, the County has determined that its interests are best served by the enactment of an ordinance providing for licensed use of the GIS data which will further provide that members of the public must comply with certain restrictions on the use and dissemination of the GIS data as a condition of its use;

BE IT ENACTED BY THE COUNTY COMMISSIONERS OF LINCOLN COUNTY:

SECTION 1. Geographic Information System


(a) The Geographic Information Services Department shall implement and maintain a Geographic Information System (GIS) primarily for the use of the various agencies of Lincoln County and, as authorized by the County Commissioners herein, for the limited use of other persons or entities. The GIS or the GIS data may be further defined in writing.
by the GIS Coordinator and shall be made up of digital data (GIS data) electronically created, collected, formatted, manipulated or otherwise maintained by the Lincoln County Geographic Information Services Department.

(b) License Agreement is required.

1. It shall be a Class 2 misdemeanor for any person or entity, to acquire, maintain, or use for any application the GIS data without first authorizing a License Agreement issued by and upon such form as designated by the Lincoln County Geographic Information Services Department.

2. The individual or entity that has obtained licensed use of the GIS data from Lincoln County shall not sublicense, assign, lease, post on the internet, transfer, sell, abuse or intend to abuse as to commit harm, allow the use of, permit access to, distribute, allow interactive rights to, or otherwise make the GIS data available to any other person or entity.

3. The Lincoln County Board of Commissioners may grant to other government/public entities, institutions, organizations or individuals, access to the GIS data in exchange for desired like valued data or at no cost to the government entities, institutions, organizations or individual.

4. Any GIS data user will have an ongoing and continual duty to notify any employees, agents, contractors or other individuals having access to the GIS data as a part of the authorized use of the GIS data, of the restrictions set forth in this section and to ensure that the employees, agents, contractors or other individuals comply with the same.

5. All licensed users and the public acknowledge and understand that the GIS data is not a legally recorded map, survey, or legal document and that the GIS data may contain errors; the GIS data is for reference only and may not be used or relied upon in any other way.

6. All licensed users and the public acknowledge and understand that Lincoln County has provided the GIS data on an “as is” basis and makes no representations, guarantees or warranties regarding the GIS data whatsoever, including but not limited to representations, guarantees or warranties that the GIS data is fit for any purpose, or is accurate, complete or correct; and further that Lincoln County expressly disclaims any and all liability of any nature whatsoever arising out of any use of the GIS data by any person or entity.

7. All licensed GIS data users and the public shall defend, release, indemnify and save and hold harmless Lincoln County and its officers, agents and employees from any and all claims, damages, demands, liabilities, losses, actions, suits, costs, expenses, legal fees, judgments, causes of action, or other legal, equitable or administrative proceedings of any kind whatsoever, of or by anyone whomsoever, regardless of the legal theory(ies) upon which premised, which in any way result from, are connected with, or arise out of, directly or indirectly, the actions or omissions of any person or entity in connection with any use of the GIS data obtained by any person or entity from Lincoln County, whether such use is authorized or unauthorized, by any person or entity, including actions or omissions of any person or entity, officers, employees, agents, representatives, invitees, subscription holders, data users, sub-consultants, or any other individual obtaining access to the GIS data provided by Lincoln County;
8. All licensed GIS data users shall, upon request from Lincoln County, use its best efforts to assist Lincoln County in identifying any unauthorized use of the GIS data by any person or entity that may have gained possession of the GIS data provided by the Lincoln County;

9. All licensed GIS data users acknowledge and understand that any use it makes of the GIS data that is not in compliance with this section or provided for by written permission from Lincoln County will cause irreparable harm and significant injury to Lincoln County and that Lincoln County may seek and obtain injunctive relief against the subscription holders, data requestors, or any person or entity, for acting or threatening to engage in or facilitate the unauthorized use of the GIS data, in addition to any other equitable or legal remedies that may be available to Lincoln County.

10. Fees for GIS data. The GIS data shall be available in such formats or products and for such costs and fees as are set forth in the Lincoln County, South Dakota Spatial Data Products and Services Order Form and may be adjusted as necessary, by resolution of the Lincoln County Board of Commissioners.

SECTION 2. Severability and Separability

Should any Section, Sub-section or Provision of these GIS Regulations be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the GIS Ordinance as a whole or any part thereof other than the part so declared to be invalid or unconstitutional.

SECTION 3. Effective Date

GIS Ordinance No. 1007-01 shall take effect and be in force from and after 20 days from the date of completed publication.

Adopted this 13th day of July, 2010

Dated at Canton, South Dakota, this 13th day of July, 2010

Chairman

Jim Schmidt, Lincoln County Commissioner

Attested:

Paula Feucht, Lincoln County Auditor